



Appeal Decision

Site visit made on 19 July 2010

by **Ray Yorke BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
3 August 2010

Appeal Ref: APP/C3810/A/10/2121628

Rear of 5 Nyetimber Close, Rose Green, Bognor Regis, West Sussex

PO21 3HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr G Bailey against the decision of Arun District Council.
- The application Ref AW/192/09, dated 30 September 2009, was refused by notice dated 09 December 2009.
- The development proposed is a new bungalow.

Decision

1. The appeal is dismissed.

Reasons for the Decision

2. The proposed bungalow would be sited in what is in effect the rear garden of 5 Nyetimber Close. It would be served by a long driveway and turning area leading off the cul-de-sac head of the close passing alongside the site boundary with the chalet bungalow at 4 Nyetimber Close. The proposed driveway would also pass close to the front door and windows of rooms in No.5. The proposed bungalow would be located close to the boundary with Nos. 7 and 8 Lovell Close and would be particularly close to the rear garden boundary of 22 Greenlea Avenue.
3. The proposal would result in the removal of most of the existing landscaping on the appeal site including several substantial trees and, because of the length of the driveway and location of the proposed bungalow, there would be very little opportunity for replacement landscaping of any significance. In my view, the proposal would be cramped and detrimental to the character and appearance of the area.
4. Furthermore, it seems to me that the proposed access, being so close to the house at No.4 and passing close to the windows of habitable rooms in No.5 would be likely to result in noise and disturbance which would adversely affect the living conditions of the occupiers of both those properties. Although the appellant says that the proposed bungalow would be marketed for the retirement age, I do not consider that this is a matter which could be controlled by a planning condition in this instance. In any case, noise and disturbance from use of the driveway would be likely, whatever the age of the occupants of the proposed bungalow. Although the appellant currently lives at No. 5, this may not always remain the case and I must have regard to the living conditions of future occupiers.

5. National planning policy guidance set out in PPS3: *Housing* has recently been amended so that the definition of previously developed land now excludes land in built-up areas such as private residential gardens. I note that the appellant says that as the planning application was submitted prior to the amendment to PPS3 it has no legal relevance to this case. National planning policy guidance is a material consideration to which I attach substantial weight and I must have regard to such guidance as exists at the time this appeal decision is made. The appeal site is clearly part of a private residential garden, and the amendment to PPS3 adds to my concern that the proposal would be unacceptable.
6. The appellant has drawn my attention to several examples of other developments in the area. However, the full circumstances of these other cases are not before me. From inspection it does not appear to me that these other examples are sufficiently similar to the appeal proposal as to constitute precedents. Each case has to be determined on its own merits having regard to current planning policies and guidance and other material considerations at the time the decision is made.
7. I find therefore that the proposal would be cramped and detrimental to the character and appearance of the area, and that it would adversely affect the living conditions of the occupiers of Nos. 4 and 5 Nyetimber Close. I consider therefore that the proposal would be contrary to saved Policy GEN7 of the Arun District Local Plan 2003.
8. For the above reasons, and having considered all other matters raised, including the representations by local residents and the Parish Council, I conclude that the appeal should be dismissed.

RJ Yorke

INSPECTOR